

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

UNITED STATES OF AMERICA)	
)	CRIMINAL ACTION NO.
v.)	2:18cr244-MHT
)	(WO)
DARRELL DEMONE MOORER)	

OPINION AND ORDER

This cause, in which defendant Darrell Demone Moorer is charged with several drug and gun offenses, is now before the court on his motion to continue. For the reasons set forth below, the court finds that jury selection and trial, now set for September 4, 2018, should be continued pursuant to 18 U.S.C. § 3161(h)(7).

While the granting of a continuance is left to the sound discretion of the trial judge, see *United States v. Stitzer*, 785 F.2d 1506, 1516 (11th Cir. 1986), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

"In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making

public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs."

§ 3161(c)(1). The Act excludes from the 70-day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." § 3161(h)(7)(A). In granting such a continuance, the court may consider, among other factors, whether the failure to grant the continuance would "result in a miscarriage of justice," § 3161(h)(7)(B)(i), or "would deny counsel for the defendant ... reasonable time necessary for effective preparation, taking into account the exercise of due diligence." § 3161(h)(7)(B)(iv).

The court concludes that, in this case, the ends of justice served by granting a continuance outweigh the interest of the public and Moorer in a speedy trial. As the motion states, Moorer has an extensive history of mental-health treatment and special education

classes during high school. After the time of the alleged offense, he was involved in a serious motorcycle accident. Defense counsel has retained Dr. Adriana Flores to conduct a mental-health evaluation to address his ability to understand *Miranda* warnings, and potentially his current competency to stand trial. In addition, Moorer has subpoenaed documents from a law enforcement agency, the results of which may lead to a pretrial motion. Accordingly, a continuance is warranted in order to allow for the completion of Moorer's local mental-health evaluation, for defense counsel to review the results of the subpoena, and for counsel for both parties to prepare for trial and engage in any plea negotiations in light of the results of these two issues. The government does not object to a continuance.

Accordingly, it is ORDERED as follows:

(1) Defendant Darrell Demone Moorer's motion to continue (doc. no. 14) is granted.

(2) The jury selection and trial, now set for September 4, 2018, are reset for November 5, 2018, at 10:00 a.m., in Courtroom 2FMJ of the Frank M. Johnson Jr. United States Courthouse Complex, One Church Street, Montgomery, Alabama.

DONE, this the 31st day of July, 2018.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE